

Application No.10/693,087
Response to Office Action

Customer No. 01933

R E M A R K S

Entry of this Amendment and reconsideration of this application as amended are respectfully requested.

Claims 1-23 and new claims 24-27 are pending in this application. Claims 1-23 were rejected. Claims 1-4, 7, 8, 14, 18, 19, 22 and 23 are amended herein to clarify the embodiments of the invention set forth therein.

RE: THE REJECTIONS

The rejection of claims 1-23 as being unpatentable over Richards et al. (USP 4,869,049) is respectfully traversed.

With respect to claims 1-13 and 20-22, claim 1 now recites a cartridge including a casing defining a cavity, a length of flexible tubing having a front end portion situated outside of the cavity and a rear end portion arranged in the cavity, an annular cover which covers the cavity and first closing means arranged in connection with the front end portion of the tubing for pre-forming a closure at the front end portion of the tubing outside of the cavity "prior to insertion of waste into said tubing and in order to create a waste receiver without tying of said front end portion of said tubing". In this manner, the tubing is capable of receiving waste "only after formation of said closure by said first closing means". The first closing means may include a metal clip or clasp attached to the front end

Application No.10/693,087
Response to Office Action

Customer No. 01933

portion of the tubing, a heat seal at the front end portion of the tubing and stitches which sew the front end portion of the tubing closed (as set forth in claims 2-4 and 22).

Richards et al. does not disclose, teach or suggest a cartridge which includes tubing having a closure at a front end portion which creates a waste receiver without tying of the front end portion of the tubing. Rather, Richards et al. teaches the exact opposite in that it states that in order to prepare the cartridge for use and create a waste receiver, the top of the tubing 2 must be pulled upwards from the core 1 and tied into a knot 24 as shown in Fig. 3 (see col. 3, lines 6-14). Thus, Richards et al. expressly contemplates tying of a front end portion of the tubing in order to form a waste receiver and thus does not disclose any structure which performs the function of the "first closing means" as set forth in independent claims 1 and 22.

Nevertheless, the Examiner takes a position that it would have been obvious to use stitching, hook and loop fasteners or tie and clasp fasteners to close the front end of the bags "since knotting (as disclosed in RICHARDS ET AL), stitching, hook and loop fasteners, and tie and clasp fasteners are all art-recognized equivalents for the secure closing of refuse or trash bags" (emphasis added).

Application No.10/693,087
Response to Office Action

Customer No. 01933

The Examiner's position is respectfully traversed for two reasons. First, a distinction must be made between techniques for closing a waste-containing refuse or trash bag (for which the obviousness of using the different closing techniques is being asserted) and the pre-forming of a closure at the front end portion of a length of flexible tubing prior to insertion of waste into the tubing and in order to create a waste receiver as in the claimed embodiments. In the claimed embodiments, there is no waste-containing bag being closed by the first closing means. Rather, the first closing means, e.g., the stitching, hook and loop fasteners or tie and clasp fasteners, pre-form a closure at the front end portion of a length of flexible tubing which cannot contain waste until after formation of the closure, i.e., the closure itself creates the waste receiver. Thus, the asserted equivalence of different techniques for closing a waste-containing bag is not applicable to a length of flexible tubing which does not and cannot contain waste prior to formation of a closure.

Second, the asserted equivalence of the different techniques to close a waste-containing bag are not proper modifications of the flexible tubing in Richards et al. The allegedly equivalent waste-containing bag closing techniques relate to the formation of a closure at the rear end portion of a bag to seal the bag (bag "closure"). By contrast, in Richards et al., it is the front

Application No.10/693,087
Response to Office Action

Customer No. 01933

end portion of the flexible tubing which is manually tied to create a bag prior to the insertion of waste into the tubing whereby the waste receiver is formed only after the tying (bag "creation"). Thus, one skilled in the art would not consider different techniques to close a waste-containing bag as equivalents to the manual tying of a front end of a length of tubing in order to create a bag.

Accordingly, one skilled in the art would not consider stitching, hook and loop fasteners and tie and clasp fasteners as equivalents for the manual tying of the front end portion of a length of flexible tubing in order to create a waste receiver as in Richards et al. and thus it would not have been obvious to one skilled in the art to modify the tubing in Richards et al. to include stitching, hook and loop fastener or tie and clasp fasteners.

In view of the arguments presented above, it is respectfully submitted that claims 1 and 22, and claims 2-13, 20 and 21 which depend from claim 1, patentably distinguish over Richards et al. under 35 USC 103.

With respect to claims 14-18, independent claim 14 recites a cartridge including first closing means arranged in connection with a casing and a cover and comprising a weakened portion formed on the cover such that a part of the cover on one side of the weakened portion is foldable about the weakened portion onto

Application No. 10/693,087
Response to Office Action

Customer No. 01933

another part of the cover on an opposite side of the weakened portion. As described in the specification, e.g., at page 30, line 22 to page 31, line 5, the presence of the weakened portion, which may comprise score lines, facilitates the folding of the cartridge after use.

A cartridge including a weakened portion on a cover is not disclosed, taught or suggested by Richards et al. Rather, the plastic ring 72 of the cartridge in Richards et al. does not include any such weakened structure which enables the cartridge to be folded after use. (Note that a similar argument was made in a related case, U.S. patent application Ser. No. 10/456,428, which has now issued as U.S. Pat. No. 6,804,930-see claim 82 thereof.)

In view of the arguments presented above, it is respectfully submitted that claim 14 and claims 15-18 which depend therefrom patentably distinguish over Richards et al. under 35 USC 103.

With respect to claim 19, claim 19 recites a cartridge including a casing defining a cavity, a length of flexible tubing arranged in the cavity and an annular cover which covers the cavity. Further, claim 19 recites that the casing is made of a plastic material and the cover is made of cardboard (see the specification at page 29, lines 23-25). Thus, in this embodiment the casing and cover are made of different materials.

Application No.10/693,087
Response to Office Action

Customer No. 01933

An advantage of making the cover of cardboard is that it is easier to provide weakened sections thereon and bend for the purpose of folding the cover about itself when the tubing is exhausted in order to close the rear end portion of the tubing (as discussed above).

A cartridge in which the casing and cover are made of different materials, with the cover being made of cardboard, is not taught or suggested by Richards et al. wherein the core 1 is a rigid plastic moulding including an angle-section plastics ring 72 arranged at the top, i.e., the core 1 and ring 72 are both made of plastic material (see col. 4, lines 36-38). Richards et al. does not provide any suggestion or motivation to make the ring 72 of a different material than the core 1, namely cardboard, to facilitate its bending, and indeed does not even contemplate bending of the cover after the tubing is exhausted.

In view of the arguments presented above, it is respectfully submitted that claim 19 patentably distinguishes over Richards et al. under 35 USC 103.

With respect to claim 23, claim 23 recites a cartridge including a length of flexible tubing having a front end and a rear end and defining a continuous, elongate passage extending fully therebetween. The tubing includes lines of depressions situated between the front and rear ends and extending entirely across a circumference of the tubing to enable the tubing to be

Application No.10/693,087
Response to Office Action

Customer No. 01933

cleanly torn about each line while forming open ends of the tubing on both sides of the line (see Fig. 27).

The Examiner takes a position that the use of lines of separation to demarcate separation points for *rolls of plastic bags* is well-known in the art and that it would have been obvious to modify the bags of Richards et al. by forming lines of separation on them (emphasis added).

The Examiner's position is respectfully traversed on the grounds that the claimed embodiment of the invention and Richards et al. do not include "rolls of plastic bags", for which the obviousness of including lines of separation or depressions to enable individual separation of the bags from the roll is asserted. Rather, Richards et al. and the embodiment of the invention set forth in claim 23 relate to a length of flexible tubing which defines a continuous passage between the front and rear ends. There are no heat-sealed circumferential lines between the front and rear ends of the tubing which will serve as the bottom of bags when the tubing is torn about lines of separation or depressions.

In view of the absence of heat-sealed circumferential lines which would enable the formation of a plurality of individual bags from the tubing of Richards et al., one skilled in the art would not be motivated to modify the tubing of Richards et al. to include lines of depressions. Indeed, the lines of depressions in

Application No.10/693,087
Response to Office Action

Customer No. 01933

prior art rolls of bags are formed solely for the purpose of enabling the formation of individual bags so that one skilled in the art would certainly not include such lines of depressions in the tubing of Richards et al. since the formation of such bags is not possible therein.

In view of the arguments presented above, it is respectfully submitted that claim 23 patentably distinguishes over Richards et al. under 35 USC 103.

NEW CLAIMS

Claims 24-27 are added. Claim 24 is an independent claim directed to a cartridge in which the cover is attached to the casing to enable the cover to at least partially separate from the casing to expose the cavity and enable insertion of a replacement length of tubing into the exposed cavity. Attachment of the cover to the casing to obtain this effect may be by hook and loop fasteners (see the specification at page 29, lines 12-21). Claims 25 and 26 depend upon claim 24.

Claim 27 is another independent claim directed to a method for using a cartridge in a waste disposal device multiple times in which when one length of tubing is exhausted, a cavity defined by a casing is exposed by at least partially separating a cover from the casing, a replacement length of tubing is inserted into

Application No.10/693,087
Response to Office Action

Customer No. 01933

the exposed cavity, and then the cover is re-attached to the casing.

These embodiments of the invention are patentable over Richards et al. because Richards et al. does not disclose using a cartridge for more than a single length of flexible tubing, or constructing a cartridge for such multiple uses.

CLAIM FEE

The application previously included 23 claims of which 5 were independent, and the appropriate claim fee was paid for such claims. The application now contains 27 claims, of which 7 are independent. Accordingly, a form 2038 is attached hereto to cover the additional claim fee in the amount of \$300.00 (small entity) for the addition of 2 extra independent claims and 4 extra claims in total. In addition, authorization is hereby given to charge any additional fees which may be determined to be required to Account No. 06-1378.

* * * * *

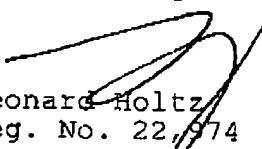
In view of the foregoing, allowance of the claims and the passing of this application to issue are respectfully solicited.

Application No.10/693,087
Response to Office Action

Customer No. 01933

If the Examiner has any comments, questions, objections or recommendations, the Examiner is invited to telephone the undersigned at the telephone number given below for prompt action.

Respectfully submitted,


Leonard Holtz
Reg. No. 22,974

Frishauf, Holtz, Goodman & Chick, P.C.
767 Third Avenue - 25th Floor
New York, New York 10017-2023
Tel. No. (212) 319-4900
Fax No. (212) 319-5101
LH:br/nps